

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 29.09.2000

OA No.273/1995

Chandra Shelkar Parashee S/o Shri Surya Prakash aged about 29 years
r/o Mohalla Nadia, Bharatpur.

OA No.276/1995

1. Mukesh Kumar S/o Shri Prakhu Singh, R/o Village and PO Kasoda
Teh and Distt. Bharatpur.
2. Mukesh Kumar S/o Shri Mahendra Singh, R/o Village and Post
Gundwa, Distt. Bharatpur.
3. Rajendra Singh Meena S/o Shri Santosi Lal, R/o Village
Girdharpur Post Karola Tehsil and Distt. Bharatpur.
4. Joginder Singh S/o Shri Bhup Singh, R/o Village and PO Kasoda
Teh and Distt. Bharatpur.

.. Applicants

Versus

1. Union of India through the Secretary to the Govt. of India,
Ministry of Defence, Department of Defence Production, Raksha
Bhawan, New Delhi.
2. The Sub-Area Commandant, 61 Sub-Area (1), Jaipur.
3. The commandant (Ammunition), Bharatpur.
4. Shri Surya Prakash Sharma S/o Shri Fateh Chand, Ammunition
Depot, Bharatpur.
5. Sh. Daroga S/o Shri Sahab Singh, Fireman, Ammunition Depot,
Bharatpur.

.. Respondents

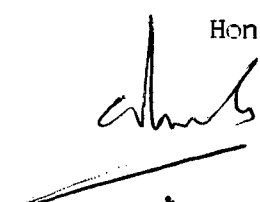
Mr. Shiv Kumar, counsel for the applicant

Mr. S.K.Jain, counsel for the respondents Nos. 1 to 3

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member



Order

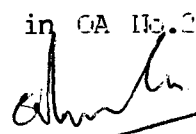
Per Hon'ble Mr. N.P.Nawani, Administrative Member

The above cited Original Applications are being disposed of through this common order in view of the similar facts and law points involved.

2. In these applications filed under Section 19 of the Administrative Tribunals Act, the applicants pray that respondents be directed to appoint them on the post of Fireman Gr.II and allow them all consequential benefits at par with respondents Nos. 4 and 5 appointed vide order dated 21.3.1995 (Ann.A1).

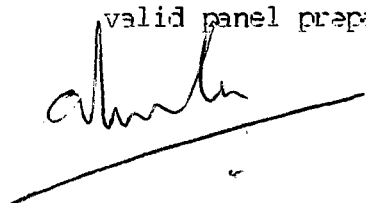
3. We have heard the learned counsel for the parties and perused all the material on record.

4. Briefly stated, the facts, as mentioned by the applicants, are that respondent No.3 The Commandant (Ammunition), Bharatpur had placed a requisition before the Employment Exchange, Bharatpur in the year 1990 for sponsoring the name of candidates for appointment to the post of Fireman Civilian Class-IV against 16 vacancies. About 450 candidates were called for interview and a selection board presided over by Major V.V.Ramaniah had selected 16 candidates of which applicant in OA No.273/95 was at Sl.No.13 and in applicants in OA No. 276/95 were at Sl.Nos. 7,11,12 and 16 as is evident from letter dated 24.12.1990 (Ann.A2). While the applicants were waiting for appointment, the Commandant wrote a letter dated 24.4.1991 (Ann.A3) in connection with the selection conducted by him. However, the applicants later found that respondents Nos. 4 and 5 have been given appointment vide Ann.A1 while the applicants have been left out, inspite of the fact that respondent No.5 Shri Daroga whose name figured at Sl.No.14 was junior to the applicant in OA No.273/95, whose name figured at Sl.No.13 and applicants



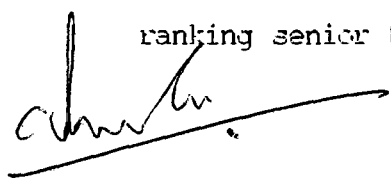
Nos. 1, 2 and 3 in OA No. 276/95. Thus the applicants have been discriminated against and the action of the authorities is arbitrary and violative of Articles 14 and 16 of the Constitution of India.

5. In their reply, the respondents had strongly denied the averments made by the applicants. It has been stated on behalf of the respondents that the letter dated 24.12.1990 (Ann.A2) purported to have been written by the Commandant to District Collector, Bharatpur was not issued by them and is wholly forged. The said letter does not carry any despatch number and does not find any entry in the Central Registry. The names of the applicants as the so called successful candidates in the said Ann.A2 do not actually find place in the panel prepared by the respondents on 3.1.1991 and approved by the competent authority on 14.2.1991. It is, therefore, contended that in view of above, the application is liable to be dismissed for wrong statement of facts. It has also been contended that from the language of Ann.A2, it is clear that the document is fully forged. As far as the letter dated 24.4.1991 (Ann.A3) is concerned, it has been stated by the respondents that this letter also does not appear to be genuine because the letter is addressed to one Shri Fateh chand, who was only a Telephone Operator and, therefore, there was no occasion for a Commandant to write the said letter to the Telephone Operator and, in any case, it has no relevance since the author of the letter was not the member of the Selection Committee and since the Presiding Officer of the Selection Board was on leave from 4.12.1990 to 2.1.1991 and the author of the letter had relinquished the charge of the post of Commandant on 24.12.1990 and further that the actual panel was prepared on 3.1.1991 and approved by the competent authority on 14.2.1991. The said letter at Ann.A3, even if genuine, cannot, therefore, be said to be conveying the actual position about the valid panel prepared by the respondents. It has also been contended




that the names of respondents Nos. 4 and 5, Shri Surya Prakash and Daroga are not at Sl.No. 9 and 14 as alleged by the applicants and even otherwise inclusion of the name of a candidate in the panel does not confer any right on such person and guarantee for the appointment. It has also been stated that Ann.A1 is not an appointment letter but only a call letter and since the name of the applicants does not figure in the said letter, there is no question of their having any merit in the said letter in any manner. It has finally been contended that respondents Nos. 4 and 5 have been given appointment only on the basis of direction of the Tribunal dated 30.7.1994 and applicants cannot claim any right on that basis and, in any case, there exist no vacancy.

6. After careful consideration of the rival contentions, we are of the opinion that the applicants have not ^{been able} to substantiate their case. They have not been able to furnish a copy of the panel and what they have furnished as Ann.A2 has been denied by the respondents as not a genuine panel. According to them, the panel was prepared on 3.1.1991 and approved by the competent authority on 14.2.1991. We are, therefore, not able to come to the conclusion that the respondents have resorted to pick and choose from the panel out of which the applicants have been arbitrarily left out and accordingly we find no violation of Article 14(1) of the Constitution and their juniors have been picked up for appointment. Even Ann.A1 does not provide any help to the cause of the applicants because they have not been able to prove that S/Shri Surya Prakash and Daroga who have been addressed through Ann.A1 were juniors as compared to the applicants in the valid panel. As far as Ann.A3 is concerned, even if we keep aside the objections raised about the genuineness of the said letter by the respondents, we find that it is only an internal correspondence and does not enclose any panel which would indicate that in the valid panel the applicants were ranking senior to persons to whom appointment letters were issued.




It also appears from the order dated 30.7.1994 of this Tribunal rendered in OA No. 170/92 that out of 8 posts, 2 posts were vacant at that time and the Tribunal had directed the respondents to consider the cases of two applicants in the said OA against those two vacancies. It, therefore, follows that there are no vacancies left now.

7. In view of the position discussed above, the Original Applications do not succeed and are, therefore, dismissed with no order as to costs.


(N.P. NAWANI)

Adm. Member


(S.K. AGARWAL)

Judl. Member